

REMARKS

The allowance of claims 1-6 and 14 and the indication by the Examiner of allowable subject matter in claims 10-13 and 16-19 are gratefully acknowledged.

Reconsideration of the rejection of claims 7, 8 and 15 under 35 USC 102 as being anticipated by Blackburn et al. is respectfully requested. First, it is not clear which space in the Blackburn et al. reference the Examiner considers to be the “space” recited in claims 7, 8 and 15. The Examiner indicates that openings 62 and 244 of Blackburn et al. are openings through the upper boundary of the space, as is required by claims 7 and 15. However, the louvers 244 cannot be openings in the upper boundary of any space, because they are in a side wall. A portion of the “space” is above them. Thus, although the louvers 244 might be through a boundary of a space, they are through a side boundary, not through an upper boundary. Furthermore, claim 7 recites “at least one opening through the upper boundary” of a space and “at least one make-up air shaft communicating through the upper boundary” of the same space. Similarly, claim 15 recites “exhausting the smoke from the space through at least one opening in the upper boundary; and introducing make-up air into the space through at least one make-up air shaft communicating through the upper boundary” of the same space. In contrast, the louvers 244 of Blackburn et al. do not open into the same space as the inner vent pipe 62, or even into the same space as the exhaust gas outlet 66. Moreover, although the Examiner characterizes the conduit 70 as “a make-up air shaft communicating through the upper boundary to below the smoke” the conduit 70 does not constitute a shaft that extends through the upper boundary of any space, much less a space from which the inner vent pipe 62 extends (or the louvers 244 extend). Figs. 1-3 show that the conduit 70 does not constitute a shaft that extends into any space, and column 5, lines 12-15 of Blackburn et al. disclose: “The outer pipe 64 connects to a conduit 70 which extends

downwardly along the rear surface of an outer shell 72 of the gas log fireplace...”.

In view of the foregoing, it is submitted that claims 7, 8 and 15 are clearly patentable over the Blackburn et al. reference. Nevertheless, in order to even more clearly distinguish these claims from the Blackburn et al. reference, by the present amendment, claims 7 and 15 have been amended to specify that the space of the claims is a “space of a building”. The space of Blackburn et al. is a space of a gas log fireplace.


Reconsideration of the rejection of claim 9 under 35 USC 103 as being unpatentable over Blackburn et al. is also respectfully requested. Claim 9 depends on claim 7, which is believed to be allowable for the reasons presented above. There is nothing in the prior art to suggest modifying the Blackburn et al. reference in a manner that would satisfy the limitations of claim 7, much less the limitations of claim 7 and the additional limitations of claim 9.

In view of the foregoing, the applicant submits that all the claims are allowable and that the application is in condition for allowance. An early notice to that effect is respectfully requested.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Attorney’s Deposit Account No. 50-0562.

Respectfully submitted,

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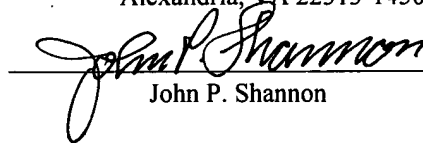
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